IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE

APPEAL NO.570 OF 2005
IN
NOTICE OF MOTION NO.1983 OF 2004
IN
SUIT NO.2655 OF 1989

Shirdhar Jagannath Nerurkar — Appellant
vs.
M/s.Godrej & Boyce Mfg.Co.Ltd. — Respondent

Mr.Birendra Saraf i/b.M/s.Mehta & Co. for the appellant.

Dr.Virendra Tulzapurkar i/b.M/s.Payne & Co. for the respondent.

**CORAM : R. M. LODHA &**
**J.P. DEVADHAR,JJ**.

**DATED : 26th July 2005**

**P.C.**

Heard.

2. Dr.Virendra Tulzapurkar, the learned senior counsel for the respondent raised the preliminary objection about the maintainability of appeal. The learned senior counsel would submit that the impugned order has been passed under clause 13 of the Letters Patent and such order being not judgment within the meaning of clause 15, the appeal is not maintainable.

3. Confronted with this difficulty, the learned counsel for the appellant prays for withdrawal of this appeal

with liberty to the appellant to pursue appropriate remedy available in law in challenging the impugned order.

4. The appeal is allowed to be withdrawn with liberty as prayed.

**(R.M. LODHA,J.)**

**(J.P. DEVADHAR,J.)**